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KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

1301 K STREET, N.W.

SUITE 1000 WEST

WASHINGTON, D.C. 20005-3317

MICHAEL K. KELLOGG

PETER W. HUBER

MARK C. HANSEN

K. CHRIS TODD

MARK L. EVANS

JEFFREY A. LAMKEN

AUSTIN C. SCHLICK

(202) 326-7900

June 5, 1996

FACSIMILE

(202) 326-7999

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**Ex Parte Filing**

William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

In re Matter of Interconnection Between Local  
Exchange Carriers and Commercial Mobile Radio  
Service Providers, CC Dkt. No. 95-185.

Dear Mr. Caton:

Enclosed for filing in this docket are the original and one copy of a white paper dealing with the question whether CMRS providers offer telephone exchange and exchange access services. Copies of the paper are being delivered to some members of the staff. I would ask that you include the paper in the record of this proceeding.

If you have any questions concerning this matter, please contact me at (202) 326-7902.

Thank you for your consideration.

Yours sincerely,



Michael K. Kellogg

cc: Ms. Brinkman  
Mr. Ellen

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CMRS Providers Offer Telephone Exchange  
and Exchange Access Services

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CMRS providers (other than one-way paging companies) offer telephone exchange service and exchange access. This is clear from the statutory definitions of those two terms. CMRS providers offer a service "provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service." 47 U.S.C. § 153(47). CMRS providers also offer "access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services." 47 U.S.C. § 153(16).

CMRS providers would thus qualify as local exchange carriers if they were not explicitly excluded (at least temporarily) from that definition. A local exchange carrier is defined as "any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term." 47 U.S.C. § 153(26).

The clear implication of this provision is that CMRS providers are engaged in the provision of telephone exchange service and exchange access. Otherwise, they would not require a specific exemption from the obligations imposed by the 1996 Act on LECs. Congress left it to the Commission to decide when CMRS was mature enough, as an industry, to shoulder those obligations. But Congress left no doubt that CMRS providers otherwise fit the definition of a local exchange carrier: that is, they provide telephone exchange service and exchange access.

Thus, even though they are not yet technically "LECs," CMRS providers fall within the definition of a "requesting telecommunications carrier" seeking interconnection "for the transmission and routing of telephone exchange service and exchange access." 47 U.S.C. § 251(c)(2)(A). They are also eligible for reciprocal compensation arrangements under section 251(b)(5).

This reading of the 1996 Act is confirmed by past Commission pronouncements. The Commission has repeatedly, and consistently, determined that CMRS providers are engaged in the provision of local exchange service and exchange access service:

"Part 22 [i.e., wireless] licensees are common carriers generally engaged in the provision of local exchange telecommunications in conjunction with the local telephone companies and are therefore 'co-carriers' with the telephone companies."<sup>1</sup>

"In view of the fact that cellular carriers are generally engaged in the provision of local, intrastate, exchange telephone service, the compensation arrangements among cellular carriers and local telephone companies are largely a matter of state, not federal, concern."<sup>2</sup>

"We expect telephone companies responsible for the administration of the numbering plan to accommodate the needs of cellular carriers for NXX codes and telephone numbers in accordance with the status of cellular companies as providers of local exchange service."<sup>3</sup>

"The Part 69 system of recovery of interstate costs and imposition of access charges does not apply to cellular carriers when they are providing only local exchange service."<sup>4</sup>

"Like local exchange carriers, mobile service providers may provide service that originates and terminates within a telephone exchange service area . . . . First, commercial mobile service providers may compete for end users with landline local exchange carriers. Second, such mobile service providers may also compete with landline local exchange carriers in the provision of access service to interexchange carriers. Finally, commercial mobile service providers may provide interexchange service directly to end

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<sup>1</sup>Memorandum Opinion and Order, The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 59 Rad. Reg. 2d (P & F) 1275 (F.C.C. Mar. 5, 1986).

<sup>2</sup>Id. at 1284-1285.

<sup>3</sup>Id. at App. B.

<sup>4</sup>Declaratory Ruling, The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 2 F.C.C. Rcd 2910, 2912 (1987). See also Memorandum Opinion and Order, MTS and WATS Market Structure, 97 F.C.C.2d 834, 881-883 (1984).

users in competition with traditional interexchange carriers like AT&T, MCI or Sprint."<sup>5</sup>

"[B]roadband PCS holds the promise of being a full competitor for cellular service and a potentially effective substitute for the wired local loop."<sup>6</sup>

"Although the local exchange services market is still dominated by LECs, competition is slowly beginning to emerge, in part from wireless services. We expect that trend to continue. . . . Given that both wired and wireless technologies will compete with each other, at least to some extent, we must consider whether the principle of regulatory parity requires a common definition of local service area for purposes of defining a CMRS provider's equal access obligation."<sup>7</sup>

"Although cellular carriers may not control a bottleneck to local access services, they, like the landline LECs, may be the sole source of certain information necessary for the correct and accurate billing and collection of interexchange calls originating on their networks."<sup>8</sup>

"[C]ellular carriers are common carriers generally engaged in the provision of local exchange telecommunications in conjunction with the local telephone companies and therefore 'co-carriers' with the telephone companies."<sup>9</sup>

"[B]oth the subscriber line connecting an individual telephone service subscriber to the LEC's central office and the radio transmission to and from a subscriber's wireless telephone are used by the subscriber to originate and terminate both toll and local telephone calls. As a result, measures such as number portability that promote competition between providers of local telephone services also promote

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<sup>5</sup>Notice of Proposed Rule Making, Implementation of Sections 3(n) and 332 of the Communications Act: Regulatory Treatment of Mobile Services, 8 F.C.C. Rcd 7988, 7999 (1993).

<sup>6</sup>Notice of Proposed Rule Making and Notice of Inquiry, Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, 9 F.C.C. Rcd 5408, 5430 (1994).

<sup>7</sup>Id. at 5438.

<sup>8</sup>Id. at 5449.

<sup>9</sup>Id. at 5453 n.192.

competition between providers of interstate access services."<sup>10</sup>

[In establishing rate ceilings for LEC interconnection services and unbundled elements, one possible method] "would be to use rates in existing interconnection and unbundling arrangements between incumbent LECs and other providers of local service, such as neighboring incumbent LECs, CMRS providers, or other new entrants in the same service area."<sup>11</sup>

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<sup>10</sup>Notice of Proposed Rule Making at ¶ 29, Telephone Number Portability, CC Dkt No. 95-116 (F.C.C. July 13, 1995).

<sup>11</sup>Notice of Proposed Rulemaking at ¶ 136, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Dkt No. 96-98 (F.C.C. Apr. 19, 1996).